

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

ADAM AND ANA DIERS,

Case No: 808-70951-ast

Debtors.

Chapter 7

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**STIPULATION AND ORDER CONSENTING TO CONVERSION OF THIS
CHAPTER 7 CASE TO ONE UNDER CHAPTER 13 OF THE BANKRUPTCY CODE**

WHEREAS, Adam Diers (“Adam Diers”) and Ana Diers (“Ana Diers”) (collectively the “Debtors”) filed a joint voluntary chapter 7 petition on February 28, 2008; and

WHEREAS, Andrew M. Thaler, Esq., was appointed as interim chapter 7 trustee, and by operation of law, became the permanent trustee administering this case (“Trustee”); and

WHEREAS, because the Debtors’ combined household income fell below the median family income for a household size of four, the Debtors were not required to complete the Statement of Current Monthly Income and Means Test Calculation; and

WHEREAS, a review of the Debtors’ Schedule “F” shows their unsecured indebtedness aggregates \$37,684.00; and

WHEREAS, the Debtors’ statement of intention shows that they would reaffirm a secured obligation of \$56,000.00 for a 2005 boat (“Boat”), with a monthly payment of \$546.00; and

WHEREAS, the United States Trustee attended the meeting of creditors pursuant to §341(a) and examined the Debtors on March 31, 2008 (“341 Meeting”); and

WHEREAS, the Debtors testified at the 341 Meeting that the Boat would be used for leisure and would not be used for Adam Diers’ employment as a handyman; and

WHEREAS, if the Debtors surrendered the Boat and eliminated a monthly payment of \$546.00 from their expenditures, they would have a monthly disposable income of approximately \$500.00 to be used to pay their creditors; and

WHEREAS, the United States Trustee advised Debtors through their counsel, Adam C. Gomeran, Esq. (“Counsel”), that under the totality of the circumstances cause may exist warranting a motion to dismiss under 11 U.S.C. §707(b)(3); and

WHEREAS, Counsel advised the United States Trustee that the Debtors voluntarily elect to convert their chapter 7 case to one under chapter 13 of the Bankruptcy Code; and

NOW, THEREFORE, subject to the entry of this stipulation and order by the Court

approving the terms and conditions of this stipulation,

IT IS HEREBY STIPULATED AGREED AND CONSENTED TO, by and between the Debtors and the United States Trustee, as follows:

1. The Debtors after being fully advised of their rights to respond to the United States Trustee's dismissal allegations and with full knowledge of these rights, waive their rights to respond and agree under 11 U.S.C. §706(a) to voluntarily convert their chapter 7 case to a chapter 13 case.
2. Based on the foregoing, the Debtors consent to the entry of this stipulation and order converting this chapter 7 case to one under chapter 13 of the Bankruptcy Code.
3. Any motion seeking re-conversion of the Debtors' case to chapter 7, must be made upon notice to the Office of the United States Trustee, Attn: Stan Y. Yang, Esq., and other parties in interest; and
4. Upon entry of an order re-converting this case to chapter 7, the United States Trustee's deadlines to file a motion to dismiss for abuse under §707(b) or a discharge action under §727 will automatically be extended sixty (60) days after the first date set for the creditors' meeting in the re-converted chapter 7 case, subject to further extension by the Court.

Dated: Central Islip, New York
April 7th, 2008

Diana G. Adams
UNITED STATES TRUSTEE
For Region 2

By: /S/ Stan Y. Yang
Stan Y. Yang
560 Central Islip
Central Islip, New York 11722

Dated: Huntington Station, New York
April 15th, 2008

The Law Office of Adam C. Gomeran
Counsel for Debtors

By: /S/ Adam C. Gomeran
Adam C. Gomeran
807 East Jericho Turnpike
Huntington Station, New York 11746

Dated: West Babylon, New York
April 15th, 2008

/S/ Adam Diers
Adam Diers
Debtor

Dated: West Babylon, New York
April 15th, 2008

/S/ Ana Diers
Ana Diers
Debtor

“SO ORDERED”

**Dated: Central Islip, New York
April 30, 2008**

/s/Alan S. Trust
Alan S. Trust
United States Bankruptcy Judge